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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,910	06/14/2005	Norman Faiola	156-037	5139
40621	7590	09/12/2008		
PASTEL LAW FIRM CHRISTOPHER R. PASTEL 8 PERRY LANE ITHACA, NY 14850-9267			EXAMINER CHIN, RANDALL E	
			ART UNIT 3723	PAPER NUMBER
			MAIL DATE 09/12/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/538,910

**Applicant(s)**

FAIOLA, NORMAN

**Examiner**

Randall Chin

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date 06282006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2, 5 and 6 are objected to because of the following informalities:  
Claim 2, line 1, "clamping member" should read –clamping mechanism--.  
Claim 5 is redundant of claim 4 since claim 5 depends on claim 4.  
Claim 6, line 1, "clamping member" should read –clamping mechanism--.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Leiferman et al. 6,029,292 (hereinafter Leiferman).

As for claim 15, the patent to Leiferman discloses in Figs. 1-3, for example, a "brush" assembly 10 having a scrubbing member or "brush" 20 and a valved coupling member or brace 33, wherein said brush 20 is attached to said brace 33 and said brace 33 engages an element 21 of a work station.

As for claim 16, said brush 20 is deemed removably attached to said brace., if so desired

As for claim 17, said brace 33 selectively engages said element of said work station (through threaded arrangement 37 in Fig. 3).

As for claim 18, the patent to Leiferman teaches in Figs. 1-3, for example, a cleaning apparatus 10, comprising a "brush" assembly 10 which includes a scrubbing member or "brush" 20 removably attached to a pivoting member or brace 44, said brush 20 having at least one cleaning surface, and wherein said brace 44 is selectively engageable with a faucet 21 (through threaded arrangement 37 in Fig. 3) such that said brace 44 is capable of being manipulated with respect to said faucet (Figs. 2 and 3).

4. Claims 1, 2, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Rix et al. 1,553,915 (hereinafter Rix).

As for claim 1, the patent to Rix discloses an apparatus, comprising a brush assembly (Fig. 2), said brush assembly including a retainer or backplane 18 with two opposed "brushes" (i.e. one on each side) attached to said backplane 18 such that a plurality of fibers or bristles (since it's felt) on each brush face outward from said backplane 30, and a clamping mechanism 23 which attaches said brush assembly to a workstation.

As for claims 1 and 2 specifically reciting that the brush assembly is attached (or removably attached) "to a faucet," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the

prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 2, said clamping member is effective for pivoting said brush assembly in and out of line with a workstation.

As for claims 1, 6 and 13 specifically reciting that the brush assembly is attached (or removably attached) "to a faucet," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 7, said clamping mechanism includes a rigid mounting member connected to said brush assembly.

As for claim 8, said clamping mechanism includes a rigid mounting member integral with said brush assembly (at final assembly).

As for claim 11, said clamping mechanism 23 includes first and second clamp plates which clamp a rigid mounting member 21 onto said faucet

5. Claims 1, 3, 6-9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kozub 3,747,150 (hereinafter Kozub).

As for claim 1, the patent to Kozub discloses in Figs. 1-4 an apparatus, comprising a brush assembly 28, said brush assembly including a body or backplane 30 with two opposed brushes attached to said backplane 30 such that a plurality of bristles

44, 46 on each brush face outward from said backplane 30, and an external threaded sleeve or clamping mechanism 36 (Fig. 3) which attaches said brush assembly to a workstation.

As for claims 1, 6 and 13 specifically reciting that the brush assembly is attached (or removably attached) "to a faucet," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claims 3 and 9, said backplane is of a plastic which is deemed thermoplastic (col. 2, lines 35-37).

As for claim 7, said clamping mechanism includes a rigid mounting member 36 connected to said brush assembly.

As for claim 8, said clamping mechanism includes a rigid mounting member 36 integral with said brush assembly (at final assembly).

As for claim 13, said clamping mechanism includes a sleeve or rod 36 having first and second ends, wherein said first end is connected to an end portion of said brush assembly 28 and said second end is connected to a workstation (Fig. 3).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 5, 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozub.

As for claims 4, 5 and 10, the clamping mechanism 36 would appear to be of metal or thermoplastic material, however, even assuming arguendo that it was not of such materials, it would have been obvious to one of ordinary skill in the art to have chosen such materials for durability and stability purposes when attached to a workstation.

As for claim 14 reciting that said second end is connected to said workstation via an internally threaded connector which screws into a workstation, Kozub already teaches an externally threaded connector (as opposed to an internally threaded one) and it would involve a mere reversal of parts and functional equivalents to provide for an internally threaded connector instead for connecting the brush assembly to a workstation.

8. Claims 3, 4, 5, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rix.

As for claims 3, 4, 5, 9 and 10, Rix's backplane and clamping mechanism is of metal (p. 2, lines 1-6) and it would have been obvious to one of ordinary skill in the art to have chosen such specific metals such as stainless steel to prevent rust buildup and for durability and stability purposes when attached to a workstation.

As for said clamping mechanism being a single plate, said plate including first and second flat portions adjacent a common curved portion, said plate further including first and second pluralities of holes in said first and second flat portions, respectively, wherein a plurality of flexible straps fitted through said pluralities of holes attach said brush assembly to said workstation, such mounting arrangement is deemed well known in the bracket mounting art for merely supporting or connecting an apparatus to a tube, rod, pipe or other fixture and is not deemed to define any patentable subject matter.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Glauber, Burkart, Marangoni, Bouchard, Leano, Carson, Reip, McClaskey, Hesselgesser, Young, Gibson, and Chung are pertinent to various brush mounted configurations.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/  
Primary Examiner, Art Unit 3723